



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 17, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-1699

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116612.

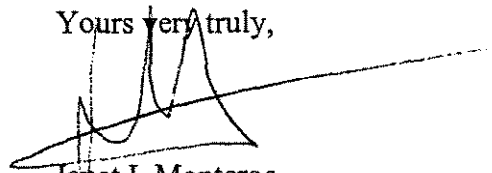
The Texas Department of Transportation (the "department") received a request to "view any and all complaints that were filed" against various wrecker services. Additionally the requestor asks for any and all correspondence, notes, memoranda dealing with a certain individual's complaint as well any complaints lodged by any employee or representative of the city of Austin, Galveston, Houston and San Antonio. You contend that the information is excepted from required public disclosure based on Government Code section 552.101. You have submitted the requested information and we now review the claimed exception.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

You received the request for information on April 6, 1998. You did not seek a decision from this office until April 27, 1998 and in fact, you acknowledge the department is late in submitting its request to this office. Consequently, you have not met your statutory burden. Gov't Code 552.301. The requested information is therefore presumed public.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 116612

Enclosures: Submitted documents

cc: Mr. Blu Shields
P.O. Box 2550
Galveston, Texas 77553-2550
(w/o enclosures)